

REMARKS

This document is filed in reply to the Final Office Action dated March 4, 2010 (“Office Action”).

Applicants have amended claim 14 in the manner suggested by the Office Action at page 5, second paragraph. Support for “suppressing cardiac hypertrophy or cardiac tachycardia in a subject having a heart disease” appears in the Specification at, e.g., page 27, lines 20-21. Applicants have also (1) cancelled claims 31-34 and (2) amended the preambles of claims 16, 17, 24, and 35-42 so that they are consistent with amended claim 14. No new matter is added.

The amendments should be entered as they raise no new issues that will require further consideration or search and also do not touch the merits of the application within the meaning of 37 C.F.R. § 1.116(b). Upon entry of the proposed amendments, claims 1, 3, 4, 11, 14, 16, 17, 24, 29, 30, and 35-42 will be pending. Among them, claims 14, 16, 17, 24, and 35-39 will be under examination. Applicants respectfully request that the Examiner reconsider this application in view of following remarks.

Claim Objection

Claim 31 was objected to. See the Office Action, page 3, first full paragraph. Applicants have cancelled this claim, rendering the objection moot.

35 U.S.C. § 112 Rejection, New Matter

Claims 14, 16-17, 24, and 35-39 were rejected for containing new matter. See the Office Action, page 3, last paragraph and the paragraph bridging pages 3 and 4. Applicants have removed the alleged new matter and request that the rejection be withdrawn.

Rejection under 35 U.S.C. § 112, first paragraph Rejection (Enablement)

The Examiner rejected claims 14, 16, 17, 24, and 35-39 for not complying with the enablement requirement. See the Office Action, page 5, lines 1-3. On the other hand, the Examiner stated that the Specification is:

enabling for:

A method for suppressing cardiac hypertrophy or cardiac tachycardia in a subject having a heart disease, said method comprises administering directly to a cardiac muscle in the heart of said subject an expression vector comprising a sequence encoding a CD9 protein, wherein the heart disease is characterized by myocardial infarction, hypertrophy, arrhythmia or tachycardia, and wherein cardiac hypertrophy or cardiac tachycardia is suppressed in said subject[.]

See the Office Action, page 5, lines 2-7. In an effort to place this application in condition for allowance, Applicants have amended independent claim 14 in the manner suggested in the above-cited passage. In view of the amendment, Applicants submit that claims 14, 16, 17, 24, and 35-29 meet the enablement requirement.

35 U.S.C. § 103(a) Rejections

Claims 31-34 were rejected for obviousness over Miyake *et al. Oncogene* 19:5221-5226, 2000 in view of US Patent No. 6638502 to Li *et al.* In the sole interest of moving this case forward, Applicants have cancelled claims 31-34 and respectfully request that the rejection be withdrawn.

Request for Consideration of Withdrawn Claims

Claims 14, 16, 17, 24, and 35-39 cover the elected species. As discussed above, Applicants have overcome the rejections and objections against the claims. These claims are therefore allowable. The other pending claims, i.e., claims 1, 3, 4, 11, 29-30 and 40-42, were previously withdrawn from consideration for covering non-elected species. Applicants request consideration of the withdrawn claims and the non-elected species.

Conclusion

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any

Applicants : Kenichiro Kosai et al
Serial No. : 10/584,109
Filed : June 22, 2006
Page : 8 of 8

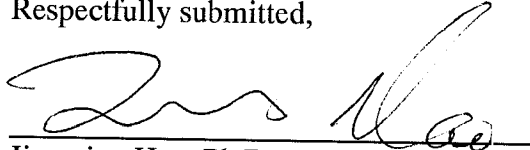
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claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any other charges or credits to Deposit Account No. 50-4189, referencing Attorney Docket No. 55801-003US1.

Respectfully submitted,

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Jianming Hao, Ph.D., J.D.
Reg. No. 54,694

Customer No. 69713
Occhiuti Rohlicek & Tsao LLP
10 Fawcett Street
Cambridge, MA 02138
Telephone: (617) 500-2512
Facsimile: (617) 500-2499
134283.doc